

**TESTIMONY BEFORE THE LEGISLATIVE MANAGEMENT'S INTERIM HUMAN SERVICES COMMITTEE PREPARED AND DELIVERED BY JAKE RODENBIKER, MCKENZIE COUNTY STATE'S ATTORNEY, 8 MARCH 2016, AT JAMESTOWN.**

Madam Chairman and Members of the Human Services Committee:

Thank you for the opportunity to address you all today on behalf of the people I serve in McKenzie County and for the over one hundred state's attorneys and assistant state's attorneys who serve the public throughout North Dakota. My name is Jake Rodenbiker, a Fargo native who served several years as an assistant state's attorney in Burleigh County and since January 2014 as State's Attorney for McKenzie County, and I am pleased to be here to share with you the challenges we see with involuntary commitments in our part of the state and to offer a few possible ways to improve the commitment process. To give you some sense of scale of my office, we have four full-time attorneys and four full-time staff, and we prosecuted more criminal cases last year than either Morton County or Stark County, which also have four attorneys.

You'll see we have fewer mental health cases than either Morton or Stark. The chart appended to this testimony compares mental health case filings from 2005 through 2015 in McKenzie County and other select counties throughout our state. These numbers were compiled and provided to me by the Unit 4 Court Administrator. I'm not here today to try to account for the rise in numbers. Lawyers are not the best with statistics and I'm no exception, but suffice to say the rise at least in my county is not significantly attributable to the number of prosecutors. The takeaway from the figures in the appendix is that over the last ten years, most of the selected counties have seen an increase and some have seen a decrease in involuntary commitments of the mentally ill and the chemically dependent, and overall the selected counties have seen just over a 35% increase in mental health case filings in the last ten years. Admittedly this is only about a fifth of our 53 counties, but I think you will find it useful nevertheless.

The most significant challenge I can identify for involuntary commitments in McKenzie County is transport. Now I realize that does not bear directly on my office, but I can't tell you how many calls I have gotten at all hours from sheriff's deputies asking if there is a way around having to transport somebody to the nearest hospital with an available appropriate bed; a 2½-hour drive under a best-case scenario. These are with commitment papers from the court in hand, ordering an evaluation by an expert examiner. Often times transporting such an individual takes a deputy off the road for most a shift or drives overtime costs. It would be best if a hospital in Williston or Dickinson, or eventually an expanded McKenzie County Hospital had available appropriate beds for these persons; perhaps that could be done by offering grants through the Department of Human Services funded in whole or in part by increased financial penalties imposed on non-criminal traffic offenses, such as speeding, in North Dakota. In my view, justice demands our primary interest ought to be getting these individuals with mental illness or chemical dependency in front of the trained professionals who can examine them and render aid appropriate to their conditions. A less robust but still pragmatic proposal on the other side of the cost coin, why not at least partially reimburse counties the costs associated with deputies having to transport committed persons outside of county boundaries, and again fund this by increased traffic ticket fees? In practice, law enforcement officers are nearly always transporting these individuals, even though Section 25-03.1-39 of the North Dakota Century Code suggests relatives and friends do so.

It occasionally happens too when the only bed available would be at the State Hospital. It can be a challenge to wait for a screening to be conducted by the regional human service center. I understand their busy schedules, the difficulties of staffing generally, and the challenges that come along with being on-call. The reason I am told the Northwest Regional Human Service

Center has to screen those committed in McKenzie County before the person can be sent to the State Hospital is because of a statute, Section 25-03.1-04 of the North Dakota Century Code. Instead the law should allow for a set of qualified medical professionals, perhaps the same set of folks qualified to perform the court-ordered examinations who are listed at Section 25-03.1-11(2) of the North Dakota Century Code, to conduct these screenings for admission to the State Hospital. This would provide an additional option when a regional human service center is unable to respond in a timely manner and would thus facilitate getting the individual into a proper facility as soon as possible. The criteria currently used to screen individuals would be shared with these qualified professionals to determine whether a person ought to be admitted to the State Hospital.

Let me offer two more ideas regarding Section 25-03.1-04 of the North Dakota Century Code. Make it so that any regional human service center can do the prescreening, not just the one where the individual is located, and let the Department of Human Services develop a way to coordinate among the various human service centers how to set up a statewide screening system that is as seamless as a statewide agency could be. The State Hospital itself should be in this screening rotation. This would avoid a situation where a transport is delayed because the only bed available is at the State Hospital and the State Hospital won't take the person until he or she is screened. It could also solve a rare problem but one that is quite significant, where a bed at a facility other than the State Hospital is thought to be available so transport commences but upon arrival at that other facility the bed has been filled. A lot can happen in 2 ½ hours. In a case like the one I described, the committed person may have to wait in a squad car or in an emergency room until a screener can be summoned from a regional human service center, and more time ticks away.

The last suggestion I have regarding Section 25-03.1-04 of the North Dakota Century Code is not to overlook the opportunity to have these individuals screened via interactive television. Although the statute only requires the screening to be performed in person when reasonably practicable, it strikes me that the primary motivation ought to be screening as soon as practicable. For cities without a regional human service center, if there is interactive television available for the screener and for the committed individual, that will almost always be quicker than waiting for somebody to drive to conduct a screening. Most jails have ITV now and those that don't may well end up finding a long-term cost savings in transportation costs if they install one. I don't know about regional human service centers, but they should have ITV too. I know the State Hospital conducts many hearings via ITV. If we can do the hearings that way, where courts are making findings and entering orders, why not the basic screening that determines if somebody is appropriate to be admitted to the State Hospital.

By the information available to me there are more individuals being committed for chemical dependency and mental illness in North Dakota than there were ten years ago. Each of these individuals deserves to be treated with dignity and respect. We may find in the course of reviewing alternatives to incarceration that even more individuals should be provided mental health and chemical dependency services. I stand here to tell you we prosecutors as ministers of justice are sincere and committed in our aim to foster that dignity and respect of persons. I believe the few small ideas I have offered today would go a long way to solving a few of the concerns that I have observed in my experience. Thank you for your time and consideration of my remarks, for your sitting on this crucial committee, and for your service to the people of our state.

**2005 – 2015 Comparison of Mental Health Cases Filed\***

<b>County (seat)</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Burleigh</b> (Bismarck)	50	72	72	64	78	80	89	140	116	118	156
<b>Cass</b> (Fargo)	213	248	279	264	336	347	324	319	351	393	384
<b>Divide</b> (Crosby)	2	1	5	1	3	2	5	7	1	4	3
<b>Grand Forks</b> (Grand Forks)	138	134	144	137	143	142	152	165	167	193	155
<b>McKenzie</b> (Watford City)	8	5	1	4	7	11	6	11	23	25	14
<b>Morton</b> (Mandan)	19	7	14	15	18	20	21	23	25	20	25
<b>Ramsey</b> (Devils Lake)	17	21	8	18	8	19	15	19	13	25	26
<b>Stark</b> (Dickinson)	29	31	38	29	44	31	44	67	84	98	77
<b>Stutsman</b> (Jamestown)	210	270	252	241	194	185	177	210	258	298	302
<b>Ward</b> (Minot)	252	216	221	225	231	219	231	226	206	140	122
<b>Williams</b> (Williston)	62	47	56	60	58	52	64	75	85	103	105
<b>TOTAL OF SELECTED COUNTIES</b>	1000	1052	1090	1058	1120	1108	1128	1262	1329	1417	1369

\*This case type includes involuntary commitments both for persons who are mentally ill or persons who are chemically dependent.